

### **REMARKS/ARGUMENTS**

The Office Action of December 12, 2003, has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claims 1, 4, 9, 11, 14, 15, 17, 19, 21-23, and 57 have been amended. Claims 1, 4, 6-23, 57, and 60-62 remain pending.

Applicants have amended claims 1, 4, 9, 11, 14, 15, 17, 19, 21-23, and 57 to correct minor clerical errors and to further clarify the present invention. The amendments made to claims 11 and 23 further address the objections raised in the Action. (See Action, paragraph 4).

#### **Rejections under 35 U.S.C. § 103(a)**

Claims 1, 6, 8-15, 17-23, 57, and 61-62 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,320,980 to Hidaka (hereinafter referred to as *Hidaka*) in view of “the first working draft (7-22-98) of IEC 61966-2-2: ‘Colour Measurement and Management in Multimedia Systems and Equipment-Part 2-2: Extended Precision RGB Colour Space’” (hereinafter referred to as *IEC 61966-2-2*). Applicants respectfully traverse this rejection.

As amended, independent claim 1 recites, among other features, “mapping RGB color data values representing an image in a first device into gamut expanded sRGB color data values of a gamut expanded sRGB color space.” Applicants’ claim 1 invention is patentably distinguishable over the applied references because *Hidaka* and *IEC 61966-2-2*, either alone or in combination, fail to teach or suggest this feature.

The Action alleges that *Hidaka* describes “mapping (502) RGB color data values representing an image in a first device (i.e. scanner 501) into XYZ color values of an XYZ color space.” (Action, page 4). The Action further states, “[h]owever, *Hidaka* discloses that the physical-based color space utilized is XYZ rather than the claimed ‘gamut expanded sRGB color space.’” (Action, pages 4-5). At best, *Hidaka* describes mapping of RGB color data values to an XYZ color space, which is a color space well known in the art to be a non-gamut expanded

physical color space. The Action cites column 9, lines 50-54 of *Hidaka* and alleges that, "it should be noted that Hidaka does not limit his system to the exclusive use of XYZ." (Action, page 5).

The cited portion of *Hidaka*, column 9, lines 50-54, reads, "[a]lthough the conversion is performed using an XYZ color space, the present invention is not limited to this. That is, it may also be used in any color space which can absorb a difference of device, e.g., a uniform color space." Indeed, the *Hidaka* reference may not be limited to conversion between an RGB color space and an XYZ color space; however, the reference clearly describes conversion between non-gamut expanded color spaces only. As admitted in the Action, *Hidaka* describes an XYZ color space rather than the gamut expanded sRGB color space of Applicants' claim 1. (Action, pages 4-5). *Hidaka* describes conversion to a color space that is always non-gamut expanded. This cited portion of *Hidaka*, column 9, lines 50-54, describes the conversion method shown in Figure 7 and under the second embodiment section. For the second embodiment, column 10 of *Hidaka* describes the various equations that are used in the conversion process and specifically identifies the Von Kreis color adaptation equation. (Col. 10, lines 10-37). By the very definition of the Von Kreis equation, white point processing occurs. Because everything is normalized up to a maximum white value under the Von Kreis equation, values above white do not exist. Indeed, *Hidaka* describes a physical based color space; however, *Hidaka* describes only what was known at the time of the invention, that is the use of white point processing for a non-gamut expanded physical based color space. The *Hidaka* reference is limited to use for conversion from non-gamut expanded RGB color space to a non-gamut expanded physical color space as white point processing under the Von Kreis color adaptation equation necessarily occurs.

The Action further relies on *IEC 61966-2-2* to overcome the aforementioned deficiencies of *Hidaka*. *IEC 61966-2-2* is not a publication pursuant to 35 U.S.C. § 102. The *IEC 61966-2-2* reference that is relied upon in the Action is a first working draft that is dated July 22, 1998 and is labeled for "IEC use only" and is stamped "P.D. 1'11'2000". Applicants submitted this document and an International Search Report from a corresponding PCT application in an Information Disclosure Statement filed on December 6, 2000. *IEC 61966-2-2* was cited in the International Search Report. *IEC 61966-2-2* was specifically cited as being printed on

November 1, 2000, as stated in the International Search Report and on the face of the document itself, which is after Applicants' filing date of August 27, 1999, and priority date of May 21, 1999.

*IEC 61966-2-2* describes a proposed work item for discussion and comment within PT 61966 only. (See page 1 of *IEC 61966-2-2*, "[t]he draft is annexed to this document as the 1<sup>st</sup> working draft for discussion and comments within PT 61966 for the time being"). Applicants direct the Examiner to the IEC Policy on document availability as shown in attached Appendix A. Applicants are of the understanding that only finalized IEC publications available at the IEC Web Store are for general public use. Working drafts within the IEC community constitute submissions for review by a scientific committee prior to publication. As explicitly stated in the IEC Policy attached in Appendix A, "[w]orking drafts and other committee papers are available only to the officers of the committee or group concerned; as such, these documents are found in password-restricted areas of the systems." Indeed, as an example, every working document listed on the IEC website for Technical Committee 100 (the technical committee responsible for *IEC 61966-2-2*) is shown to require a password for access to the working document. (See attached document listing in Appendix B). Based on the above information, the working draft document, *IEC 61966-2-2*, would have only been available to members of the PT 61966 committee for discussion and comment purposes only prior to August 27, 1999, the filing date of the present application, and May 21, 1999, the priority date of the present application.

Applicants show additional support for the confidentiality of working drafts in the Statutes and Rules of Procedure for the IEC shown in attached Appendix C. On page 24, Clause 21 explicitly reads that, "[t]he National Committees shall endeavor to prevent unauthorized reproduction or distribution, in their own countries, of any of the Commission's publications." Therefore, as a matter of formal policy and procedure as well as professional courtesy and practice, members of the IEC community reviewing working drafts treat every submission confidentially, as a draft, at all times prior to publication of the final version. Necessarily, *IEC 61966-2-2* was not publicly disclosed and/or available on July 22, 1998. As shown in the attached Appendixes D and E of the history of the *IEC 61966-2-2* Ed. 1.0 project, the first entry listed is the potential new work item entry on December 6, 1999, and the first published

document, 100/128/NP, is listed as being published on February 11, 2000. In each instance, the filing date and priority date for the present application precede these publication dates. Because *IEC 61966-2-2* does not constitute a document that was publicly available prior to at least the filing date of the present application, any rejection applying this reference is mooted. Should the policy documents of the IEC fail to remove the *IEC 61966-2-2* reference as a prior art reference, Applicants reserve the right to traverse the *IEC 61966-2-2* reference on the merits and/or to supplement the documents provided herein. Accordingly, Applicants submit that *IEC 61966-2-2* does not constitute prior art to the claims. Necessarily, because *Hidaka* fails to teach or suggest every feature of Applicants' claim 1 and further because *61966-2-2* does not constitute prior art, Applicants respectfully request withdrawal of the rejection.

Applicants' independent claims 15, 23, 57, 61, and 62 stand rejected for the same reasons as stated above with respect to independent claim 1. For substantially the same reasons as stated above with reference to claim 1, Applicants' claims 15, 23, 57, 61, and 62 distinguish over the art of record and are in condition for allowance.

Applicants' claims 6, 8-14, and 17-22, which depend from claims 1 and 15, are patentably distinguishable the art of record for at least the same reasons as their ultimate base claim and further in view of the novel features recited therein.

Claims 4, 7, 16, and 60 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Hidaka* and *IEC 61966-2-2* in view of U.S. Patent No. 5,946,113 to Pritchett (hereinafter referred to as *Pritchett*). Applicants respectfully traverse this rejection.

Claims 4, 7, and 16, which depend from claims 1 and 15, are patentably distinguishable over the art of record for at least the same reasons as their ultimate base claim and further in view of the novel features recited therein. Further, *Pritchett* fails to cure the deficiencies of *Hidaka*. Necessarily, withdrawal of the rejection of claims 4, 7, and 16 is respectfully requested.

Many of the features of claim 60 stand rejected for the same reasons as stated above with reference to claim 1. For substantially similar reasons as stated above with reference to Applicants' claim 1, Applicants' claim 60 is patentably distinguishable over the art of record and further in view of the novel features recited therein. Further, *Pritchett* fails to cure the

Appl. No. 09/384,141  
Request Dated March 12, 2004  
Reply to non-final Office Action of December 12, 2003

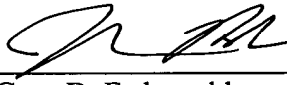
deficiencies of *Hidaka*. Necessarily, withdrawal of the rejection of claim 60 is respectfully requested.

### **CONCLUSION**

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same. Should the Examiner find that a telephonic or personal interview would expedite passage to issue of the present application, the Examiner is encouraged to contact the undersigned attorney at the telephone number indicated below. No fee is believed due, however, if any fees are required or if an overpayment has been made the Commissioner is authorized to charge or credit Deposit Account No. 19-0733. Applicants look forward to passage to issue of the present application at the earliest convenience of the Office.

Respectfully submitted,  
**BANNER & WITCOFF, LTD.**

Date: March 12, 2004

By:  Reg. No. 42,238  
for Gary D. Fedorochko  
Registration No. 35,509

1001 G Street, N.W.  
Eleventh Floor  
Washington, D.C. 20001-4597  
(202) 824-3000